

REFERENCE TITLE: lottery; advertising; failing schools

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HB 2644

Introduced by
Representatives Campbell CL, Ableser, Farley, Miranda B, Schapira, Ulmer,
Senator Landrum Taylor: Representatives Campbell CH, Clark, Gallardo,
Lopez, McGuire, Thrasher

AN ACT

AMENDING SECTIONS 5-504, 5-505, 5-522 AND 15-241, ARIZONA REVISED STATUTES;
RELATING TO THE STATE LOTTERY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 5-504, Arizona Revised Statutes, is amended to
3 read:

4 5-504. Commission; director; powers and duties; definitions

5 A. The commission shall meet with the director not less than once each
6 quarter to make recommendations and set policy, receive reports from the
7 director and transact other business properly brought before the commission.

8 B. The commission shall oversee a state lottery to produce the maximum
9 amount of net revenue consonant with the dignity of the state. To achieve
10 these ends, the commission shall authorize the director to adopt rules in
11 accordance with title 41, chapter 6. Rules adopted by the director may
12 include provisions relating to the following:

13 1. Subject to the approval of the commission, the types of lottery
14 games and the types of game play-styles to be conducted.

15 2. The method of selecting the winning tickets or shares for
16 noncomputerized on-line games, except that no method may be used which, in
17 whole or in part, depends on the results of a dog race, a horse race or any
18 sporting event.

19 3. The manner of payment of prizes to the holders of winning tickets
20 or shares including providing for payment by the purchase of annuities in the
21 case of prizes payable in installments, except that the commission staff
22 shall examine claims and may not pay any prize based on altered, stolen or
23 counterfeit tickets or based on any tickets which fail to meet established
24 validation requirements, including rules stated on the ticket or in the
25 published game rules, and confidential validation tests applied consistently
26 by the commission staff. No particular prize in a lottery game may be paid
27 more than once, and in the event of a binding determination that more than
28 one person is entitled to a particular prize, the sole remedy of the
29 claimants is the award to each of them of an equal portion of the single
30 prize.

31 4. The method to be used in selling tickets or shares, except that no
32 elected official's name may be printed on such tickets or shares. The
33 overall estimated odds of winning some prize or some cash prize, as
34 appropriate, in a given game shall be printed on each ticket or share.

35 5. The licensing of agents to sell tickets or shares, except that a
36 person under the age of eighteen shall not be licensed as an agent.

37 6. The manner and amount of compensation to be paid licensed sales
38 agents necessary to provide for the adequate availability of tickets or
39 shares to prospective buyers and for the convenience of the public, including
40 provision for variable compensation based on sales volume.

41 7. Matters necessary or desirable for the efficient and economical
42 operation and administration of the lottery and for the convenience of the
43 purchasers of tickets or shares and the holders of winning tickets or shares.

44 C. The commission shall authorize the director to issue orders and
45 shall approve orders issued by the director for the necessary operation of

1 the lottery. Orders issued under this subsection may include provisions
2 relating to the following:

3 1. The prices of tickets or shares in lottery games.

4 2. The themes, game play-styles, and names of lottery games and
5 definitions of symbols and other characters used in lottery games, except
6 that each ticket or share in a lottery game shall bear a unique
7 distinguishable serial number.

8 3. The sale of tickets or shares at a discount for promotional
9 purposes.

10 4. The prize structure of lottery games, including the number and size
11 of prizes available. Available prizes may include free tickets in lottery
12 games and merchandise prizes.

13 5. The frequency of drawings, if any, or other selections of winning
14 tickets or shares, except that:

15 (a) All drawings shall be open to the public.

16 (b) The actual selection of winning tickets or shares may not be
17 performed by an employee or member of the commission.

18 (c) Noncomputerized on-line game drawings shall be witnessed by an
19 independent observer.

20 6. Requirements for eligibility for participation in grand drawings or
21 other runoff drawings, including requirements for the submission of evidence
22 of eligibility within a shorter period than that provided for claims by
23 section 5-518.

24 7. Incentive and bonus programs designed to increase sales of lottery
25 tickets or shares and to produce the maximum amount of net revenue for this
26 state.

27 D. Notwithstanding title 41, chapter 6 and subsection B of this
28 section, the director, subject to the approval of the commission, may
29 establish a policy, procedure or practice that relates to an existing on-line
30 game or a new on-line game which is the same type and has the same type of
31 game play-style as an on-line game currently being conducted by the lottery
32 or may modify an existing rule for an existing on-line game or a new on-line
33 game which is the same type and has the same type of game play-style as an
34 on-line game currently being conducted by the lottery, including establishing
35 or modifying the matrix for an on-line game by giving notice of the
36 establishment or modification at least thirty days before the effective date
37 of the establishment or modification.

38 E. The commission shall maintain and make the following information
39 available for public inspection at its offices during regular business hours:

40 1. A detailed listing of the estimated number of prizes of each
41 particular denomination expected to be awarded in any instant game currently
42 on sale.

43 2. After the end of the claim period prescribed by section 5-518, a
44 listing of the total number of tickets or shares sold and the number of
45 prizes of each particular denomination awarded in each lottery game.

1 3. Definitions of all play symbols and other characters used in each
2 lottery game and instructions on how to play and how to win each lottery
3 game.

4 F. Any information that is maintained by the commission and that would
5 assist a person in locating or identifying a winning ticket or share or that
6 would otherwise compromise the integrity of any lottery game is deemed
7 confidential and is not subject to public inspection.

8 G. The commission shall, in addition to other games authorized by this
9 article, establish two special games for each year to be conducted
10 concurrently with other lottery games authorized under subsection B of this
11 section. The monies for prizes, for operating expenses and for payment to
12 the commerce and economic development commission fund, as provided in section
13 5-522, subsection A, paragraph ~~3~~ 2, shall be accounted for separately as
14 nearly as practicable in the lottery commission's general accounting
15 system. The monies shall be derived from the revenues of the special games,
16 and monies for prizes do not become an expense to the lottery commission's
17 annual appropriation as provided in section 5-505, subsection D and section
18 5-522, subsection ~~H~~ J. Monies saved from the revenues of the special games,
19 by reason of operating efficiencies, shall become other revenue of the
20 lottery commission and revert to the state general fund.

21 H. The commission may, in addition to other games authorized by this
22 article, establish multistate lottery games to be conducted concurrently with
23 other lottery games authorized under subsections B and ~~H~~ G of this section.
24 The monies for prizes, for operating expenses and for payment to the local
25 transportation assistance fund, as provided in section 28-8101, and the state
26 general fund shall be accounted for separately as nearly as practicable in
27 the lottery commission's general accounting system. The monies shall be
28 derived from the revenues of multistate lottery games.

29 I. The commission or director shall not establish or operate any
30 on-line or electronic keno game or any game played on the internet.

31 J. The director shall print, in a prominent location on each lottery
32 ticket or share, a statement that help is available if a person has a problem
33 with gambling and a toll free telephone number where problem gambling
34 assistance is available. The director shall require all licensed agents to
35 post a sign with the statement that help is available if a person has a
36 problem with gambling and the toll free telephone number at the point of sale
37 as prescribed and supplied by the director. The requirements of this
38 subsection apply to tickets and shares printed after July 18, 2000.

39 K. For the purposes of this section:

40 1. "Game play-style" means the process or procedure that a player must
41 follow to determine if a lottery ticket or share is a winning ticket or
42 share.

43 2. "Matrix" means the odds of winning a prize and the prize payout
44 amounts in a given game.

1 Sec. 2. Section 5-505, Arizona Revised Statutes, is amended to read:
2 5-505. Apportionment of revenue

3 A. Not more than eighteen and one-half per cent of the total annual
4 revenues accruing from the sale of lottery tickets or shares and from all
5 other sources shall be deposited in the state lottery fund established
6 pursuant to section 5-521 to be expended for the following:

7 1. The payment of costs incurred in the operation and administration
8 of the lottery, including the expenses of the commission and the costs
9 resulting from any contract or contracts entered into for consulting or
10 operational services, or for promotional and advertising services. ~~Not more~~
11 ~~than~~ Four per cent of the total annual gross revenues of the lottery shall be
12 expended for promotional or advertising services.

13 2. Independent audits, which shall be performed annually in addition
14 to the audits required by section 5-524.

15 3. Incentive programs for lottery sales agents and lottery employees.

16 4. Payment of compensation to licensed sales agents necessary to
17 provide for the adequate availability of tickets or services to prospective
18 buyers and for the convenience of the public. Compensation of licensed sales
19 agents shall be at least six and one-half per cent but not more than seven
20 per cent of the price of each ticket or share that a retail sales agent sells
21 in instant games and on-line games, less the price of any tickets or shares
22 that are voided.

23 5. The payment of reasonable fees to redemption agents as authorized
24 by section 5-519.

25 6. The purchase or lease of lottery equipment, tickets and materials.

26 B. Not less than twenty-nine per cent of the total annual revenues
27 accruing from the sale of lottery tickets or shares in on-line games and not
28 less than twenty-one and one-half per cent of the total annual revenues
29 accruing from the sale of lottery tickets or shares in instant games shall be
30 deposited in the state lottery fund established pursuant to section 5-521 to
31 be used as prescribed in section 5-522, subsection A, paragraphs 2, 3, 4,
32 ~~AND 5 and 6~~, and section 5-522, subsections B, C, D and E.

33 C. Not less than fifty per cent of the total annual revenues accruing
34 from the sale of lottery tickets or shares shall be deposited in the state
35 lottery prize fund established pursuant to section 5-523 for payment of
36 prizes to the holders of winning tickets or shares or for other purposes
37 provided for in section 5-518.

38 D. Except for monies for prizes expended as provided in section 5-504,
39 subsection ~~H~~ G and section 41-1505.10, monies expended under subsection A of
40 this section shall be subject to legislative appropriation.

41 Sec. 3. Section 5-522, Arizona Revised Statutes, is amended to read:
42 5-522. Use of monies in state lottery fund; report

43 A. The monies in the state lottery fund shall be expended only for the
44 following purposes and in the order provided:

1 1. For the expenses of the commission incurred in carrying out its
2 powers and duties and in the operation of the lottery.

3 2. For payment to the commerce and economic development commission
4 fund established by section 41-1505.10 of not less than twenty-one and
5 one-half per cent of the revenues received from the sale of two special
6 lottery games conducted for the benefit of economic development.

7 3. Except as provided in subsection F of this section, for payment to
8 the local transportation assistance fund established by section 28-8101 of
9 not less than twenty-nine per cent of the revenues received from the sale of
10 multistate lottery games, up to a maximum of eighteen million dollars each
11 fiscal year.

12 4. For payment to the state general fund of not less than twenty-one
13 and one-half per cent of the revenues received from the sale of any instant
14 bingo games conducted by the state lottery and not less than twenty-nine per
15 cent of the revenues received from the sale of any on-line three-number games
16 conducted by the state lottery, up to a maximum of ten million dollars each
17 fiscal year, except that if on or before June 1 of each fiscal year the state
18 lottery director determines that monies available to the Arizona state parks
19 board heritage fund under subsection D of this section may not equal ten
20 million dollars in that fiscal year or that the monies available to the
21 Arizona game and fish commission heritage fund under subsection D of this
22 section may not equal ten million dollars in that fiscal year, or both, the
23 director shall authorize deposits to the Arizona state parks board heritage
24 fund in an amount so that the total monies in that fund in that fiscal year
25 equal ten million dollars or to the Arizona game and fish commission heritage
26 fund in an amount so that the total monies in that fund in that fiscal year
27 equal ten million dollars, or both. The state lottery director shall not
28 make any deposits pursuant to this paragraph until after the director's
29 determination each fiscal year.

30 5. Of the monies remaining in the state lottery fund from the sale of
31 instant bingo games and on-line three-number games each fiscal year, thirty
32 per cent shall be allocated to the funds and programs described in subsection
33 E of this section and seventy per cent shall be deposited in the local
34 transportation assistance fund established by section 28-8101. The director
35 shall not allocate more than the amount specified in subsection E of this
36 section for each fiscal year to the funds and programs described in
37 subsection E of this section from the state lottery fund pursuant to this
38 paragraph and subsection E of this section. A maximum of eighteen million
39 dollars may be deposited in the local transportation assistance fund each
40 fiscal year from the state lottery fund pursuant to this paragraph and
41 paragraph 3 of this subsection.

42 B. Of the monies remaining in the state lottery fund after the
43 appropriations authorized in subsection A of this section seventy-five per
44 cent up to a maximum of twenty-three million dollars each fiscal year shall
45 be deposited in the local transportation assistance fund established by

1 section 28-8101 and twenty-five per cent up to a maximum of seven million six
2 hundred fifty thousand dollars each fiscal year shall be deposited in the
3 county assistance fund established by section 41-175. Monies distributed
4 pursuant to this subsection shall be in addition to monies distributed
5 pursuant to subsection A, paragraphs 3 and 5 of this section.

6 C. Notwithstanding subsection B of this section, if the state lottery
7 director determines at the beginning of any fiscal year that monies available
8 to cities, towns and counties under this section may not equal thirty million
9 six hundred fifty thousand dollars, the director shall not authorize deposits
10 to the county assistance fund until the deposits to the local transportation
11 assistance fund equal twenty-three million dollars.

12 D. Of the monies remaining in the state lottery fund each fiscal year
13 after appropriations and deposits authorized in subsections A, B and C of
14 this section, ten million dollars shall be deposited in the Arizona state
15 parks board heritage fund established by section 41-502 and ten million
16 dollars shall be deposited in the Arizona game and fish commission heritage
17 fund established by section 17-297.

18 E. Of the monies remaining in the state lottery fund each fiscal year
19 after appropriations and deposits authorized in subsections A, B, C and D of
20 this section, and appropriations and deposits to the local transportation
21 assistance fund authorized by this section, five million dollars shall be
22 allocated to the department of economic security for the healthy families
23 program established by section 8-701, four million dollars shall be allocated
24 to the Arizona board of regents for the Arizona area health education system
25 established by section 15-1643, three million dollars shall be allocated to
26 the department of health services to fund the teenage pregnancy prevention
27 programs established in Laws 1995, chapter 190, sections 2 and 3, two million
28 dollars shall be allocated to the department of health services for the
29 health start program established by section 36-697, two million dollars shall
30 be deposited in the disease control research fund established by section
31 36-274 and one million dollars shall be allocated to the department of health
32 services for the federal women, infants and children food program. The
33 allocations in this subsection shall be adjusted annually according to
34 changes in the GDP price deflator as defined in section 41-563 and the
35 allocations are exempt from the provisions of section 35-190, relating to
36 lapsing of appropriations. If there are not sufficient monies available
37 pursuant to this subsection, the allocation of monies for each program shall
38 be reduced on a pro rata basis.

39 F. Notwithstanding subsection A, paragraph 3 of this section, if the
40 state lottery director determines that monies available to the state general
41 fund from the sale of multistate lottery games may not equal thirty-one
42 million dollars in a fiscal year, the director shall not authorize deposits
43 to the local transportation assistance fund pursuant to subsection A,
44 paragraph 3 of this section until the deposits to the state general fund from

1 the sale of multistate lottery games equal thirty-one million dollars in a
2 fiscal year.

3 G. Of the monies remaining in the state lottery fund each fiscal year
4 after appropriations and deposits authorized in subsections A through F of
5 this section, one million dollars or the remaining balance in the fund,
6 whichever is less, is appropriated to the department of economic security for
7 grants to nonprofit organizations, including faith based organizations, for
8 homeless emergency and transitional shelters and related support services.
9 The department of economic security shall submit a report on the amounts,
10 recipients, purposes and results of each grant to the governor, the speaker
11 of the house of representatives and the president of the senate on or before
12 December 31 of each year for the prior fiscal year and shall provide a copy
13 of this report to the secretary of state and the director of the Arizona
14 state library, archives and public records.

15 H. OF THE MONIES REMAINING IN THE STATE LOTTERY FUND EACH FISCAL YEAR
16 AFTER APPROPRIATIONS AND DEPOSITS AUTHORIZED IN SUBSECTIONS A THROUGH G OF
17 THIS SECTION, THREE MILLION FIVE HUNDRED THOUSAND DOLLARS OR THE REMAINING
18 BALANCE IN THE FUND, WHICHEVER IS LESS, IS APPROPRIATED TO THE DEPARTMENT OF
19 EDUCATION FOR DEPOSIT IN THE FAILING SCHOOLS TUTORING FUND ESTABLISHED BY
20 SECTION 15-241. THE DOLLAR AMOUNT PRESCRIBED IN THIS SUBSECTION SHALL BE
21 ADJUSTED ANNUALLY ACCORDING TO CHANGES IN THE GDP PRICE DEFLATOR AS DEFINED
22 IN SECTION 41-563.

23 ~~H.~~ I. All monies remaining in the state lottery fund after the
24 appropriations and deposits authorized in this section shall be deposited in
25 the state general fund.

26 ~~I.~~ J. Except for monies expended for prizes as provided in section
27 5-504, subsection G and section 41-1505.10, monies expended under subsection
28 A of this section are subject to legislative appropriation.

29 Sec. 4. Section 15-241, Arizona Revised Statutes, is amended to read:

30 15-241. School accountability: schools failing to meet academic
31 standards; failing schools tutoring fund;
32 classification label for school districts and charter
33 school operators

34 A. The department of education shall compile an annual achievement
35 profile for each public school.

36 B. Each school shall submit to the department any data that is
37 required and requested and that is necessary to compile the achievement
38 profile. A school that fails to submit the information that is necessary is
39 not eligible to receive monies from the classroom site fund established by
40 section 15-977.

41 C. The department shall establish a baseline achievement profile for
42 each school by October 15, 2001. The baseline achievement profile shall be
43 used to determine a standard measurement of acceptable academic progress for
44 each school and a school classification pursuant to subsection H of this
45 section. Any disclosure of educational records compiled by the department of

1 education pursuant to this section shall comply with the family educational
2 and privacy rights act of 1974 (20 United States Code section 1232g).

3 D. The achievement profile for schools that offer instruction in
4 kindergarten programs and grades one through eight, or any combination of
5 those programs or grades, shall include the following school academic
6 performance indicators:

7 1. The Arizona measure of academic progress. The department shall
8 compute the extent of academic progress made by the pupils in each school
9 during the course of each year.

10 2. The Arizona instrument to measure standards test. The department
11 shall compute the percentage of pupils who meet or exceed the standard on the
12 Arizona instrument to measure standards test, as prescribed by the state
13 board of education. The superintendent of public instruction and the
14 department may calculate academic gain on the Arizona instrument to measure
15 standards test according to each of the school classifications prescribed in
16 subsection G of this section on a statewide basis, for each school district
17 in this state and for each school by determining the average scale scores for
18 students in the current academic year as compared to the average scale scores
19 for the previous academic year for the same students.

20 3. The results of English language learners tests administered
21 pursuant to section 15-756, subsection B, section 15-756.05 and section
22 15-756.06.

23 E. The achievement profile for schools that offer instruction in
24 grades nine through twelve, or any combination of those grades, shall include
25 the following school academic performance indicators:

26 1. The Arizona instrument to measure standards test. The department
27 shall compute the percentage of pupils pursuant to subsection G of this
28 section who meet or exceed the standard on the Arizona instrument to measure
29 standards test, as prescribed by the state board of education. The
30 superintendent of public instruction and the department may calculate
31 academic gain on the Arizona instrument to measure standards test according
32 to each of the school classifications prescribed in subsection G of this
33 section on a statewide basis, for each school district in this state and for
34 each school by determining the average scale scores for students in the
35 current academic year as compared to the average scale scores for the
36 previous academic year for the same students.

37 2. The annual dropout rate.

38 3. The annual graduation rate.

39 4. The results of English language learners tests administered
40 pursuant to section 15-756, subsection B, section 15-756.05 and section
41 15-756.06.

42 F. Schools that offer instruction in all or a combination of the
43 grades specified in subsections D and E of this section shall include a
44 single achievement profile for that school that includes the school academic
45 performance indicators specified in subsections D and E of this section.

1 G. Subject to final adoption by the state board of education, the
2 department shall determine the criteria for each school classification using
3 a research based methodology. The methodology shall include the performance
4 of pupils at all achievement levels, account for pupil mobility, account for
5 the distribution of pupil achievement at each school and include longitudinal
6 indicators of academic performance. For the purposes of this subsection,
7 "research based methodology" means the systematic and objective application
8 of statistical and quantitative research principles to determine a standard
9 measurement of acceptable academic progress for each school.

10 H. The achievement profile shall be used to determine a school
11 classification that designates each school as one of the following:

- 12 1. An excelling school.
- 13 2. A highly performing school.
- 14 3. A performing school.
- 15 4. An underperforming school.
- 16 5. A school failing to meet academic standards.

17 I. The classification for each school and the criteria used to
18 determine classification pursuant to subsection G of this section shall be
19 included on the school report card prescribed in section 15-746.

20 J. Subject to final adoption by the state board of education, the
21 department of education shall develop a parallel achievement profile for
22 accommodation schools, alternative schools as defined by the state board of
23 education and extremely small schools as defined by the state board of
24 education for the purposes of this section.

25 K. If a school is designated as an underperforming school, within
26 ninety days after receiving notice of the designation, the governing board
27 shall develop an improvement plan for the school, submit a copy of the plan
28 to the superintendent of public instruction and supervise the implementation
29 of the plan. The plan shall include necessary components as identified by
30 the state board of education. Within thirty days after submitting the
31 improvement plan to the superintendent of public instruction, the governing
32 board shall hold a special public meeting in each school that has been
33 designated as an underperforming school and shall present the respective
34 improvement plans that have been developed for each school. The school
35 district governing board, within thirty days of receiving notice of the
36 designation, shall provide written notification of the classification to each
37 residence within the attendance area of the school. The notice shall explain
38 the improvement plan process and provide information regarding the public
39 meeting required by this subsection.

40 L. A school that has not submitted an improvement plan pursuant to
41 subsection K of this section is not eligible to receive monies from the
42 classroom site fund established by section 15-977 for every day that a plan
43 has not been received by the superintendent of public instruction within the
44 time specified in subsection K of this section plus an additional ninety
45 days. The state board of education shall require the superintendent of the

1 school district to testify before the board and explain the reasons that an
2 improvement plan for that school has not been submitted.

3 M. If a charter school is designated as an underperforming school,
4 within thirty days the school shall notify the parents of the students
5 attending the school of the classification. The notice shall explain the
6 improvement plan process and provide information regarding the public meeting
7 required by this subsection. Within ninety days of receiving the
8 classification, the charter holder shall present an improvement plan to the
9 charter sponsor at a public meeting and submit a copy of the plan to the
10 superintendent of public instruction. The improvement plan shall include
11 necessary components as identified by the state board of education. For
12 every day that an improvement plan is not received by the superintendent of
13 public instruction, the school is not eligible to receive monies from the
14 classroom site fund established by section 15-977 for every day that a plan
15 has not been received by the superintendent of public instruction within the
16 time specified in subsection K of this section plus an additional ninety
17 days. The charter holder shall appear before the sponsoring board and
18 explain why the improvement plan has not been submitted.

19 N. The department of education shall establish an appeals process, to
20 be approved by the state board of education, for a school to appeal data used
21 to determine the achievement profile of the school. The criteria established
22 shall be based on mitigating factors and may include a visit to the school
23 site by the department of education.

24 O. If a school remains classified as an underperforming school for a
25 third consecutive year, the department of education shall visit the school
26 site to confirm the classification data and to review the implementation of
27 the school's improvement plan. The school shall be classified as failing to
28 meet academic standards unless an alternate classification is made after an
29 appeal pursuant to subsection N of this section.

30 P. The school district governing board, within thirty days of
31 receiving notice of the school failing to meet academic standards
32 classification, shall provide written notification of the classification to
33 each residence in the attendance area of the school. The notice shall
34 explain the improvement plan process and provide information regarding the
35 public meeting required by subsection S of this section.

36 Q. The superintendent of public instruction, based on need, shall
37 assign a solutions team to an underperforming school, a school failing to
38 meet academic standards or any other school pursuant to a mutual agreement
39 between the department of education and the school comprised of master
40 teachers, fiscal analysts and curriculum assessment experts who are certified
41 by the state board of education as Arizona academic standards technicians.
42 The department of education may hire or contract with administrators,
43 principals and teachers who have demonstrated experience with the
44 characteristics and situations in an underperforming school or a school
45 failing to meet academic standards and may use these personnel as part of the

1 solutions team. The department of education shall work with staff at the
2 school to assist in curricula alignment and shall instruct teachers on how to
3 increase pupil academic progress, considering the school's achievement
4 profile. The solutions team shall consider the existing improvement plan to
5 assess the need for changes to curriculum, professional development and
6 resource allocation and shall present a statement of its findings to the
7 school administrator and district superintendent. Within forty-five days
8 after the presentation of the solutions team's statement of findings, the
9 school district governing board, in cooperation with each school within the
10 school district that is designated an underperforming school and its assigned
11 solutions team representative, shall develop and submit to the department of
12 education an action plan that details the manner in which the school district
13 will assist the school as the school incorporates the findings of the
14 solutions team into the improvement plan. The department of education shall
15 review the action plan and shall either accept the action plan or return the
16 action plan to the school district for modification. If the school district
17 does not submit an approved action plan within forty-five days, the state
18 board of education may direct the superintendent of public instruction to
19 withhold up to ten per cent of state monies that the school district would
20 otherwise be entitled to receive each month until the plan is submitted to
21 the department of education, at which time those monies shall be returned to
22 the school district.

23 R. The parent or the guardian of the pupil may apply to the department
24 of education, in a manner determined by the department of education, for a
25 certificate of supplemental instruction from the failing schools tutoring
26 fund established by this section. Pupils attending a school designated as an
27 underperforming school or a school failing to meet academic standards or a
28 pupil who has failed to pass one or more portions of the Arizona instrument
29 to measure standards test in grades eight through twelve in order to graduate
30 from high school may select an alternative tutoring program in academic
31 standards from a provider that is certified by the state board of education.
32 To qualify, the provider must state in writing a level of academic
33 improvement for the pupil that includes a timeline for improvement that is
34 agreed to by the parent or guardian of the pupil. The state board of
35 education shall annually review academic performance levels for providers
36 certified pursuant to this subsection and may remove a provider at a public
37 hearing from an approved list of providers if that provider fails to meet its
38 stated level of academic improvement. The state board of education shall
39 determine the application guidelines and the maximum value for each
40 certificate of supplemental instruction. The state board of education shall
41 annually complete a market survey in order to determine the maximum value for
42 each certificate of supplemental instruction. Nothing in this subsection
43 shall be construed to require the state to provide additional monies beyond
44 the monies provided pursuant to section 42-5029, subsection E, paragraph 7.

1 S. Within sixty days of receiving notification of designation as a
2 school failing to meet academic standards, the school district governing
3 board shall evaluate needed changes to the existing improvement plan for the
4 school, consider recommendations from the solutions team, submit a copy of
5 the plan to the superintendent of public instruction and supervise the
6 implementation of the plan. Within thirty days after submitting the
7 improvement plan to the superintendent of public instruction, the governing
8 board shall hold a public meeting in each school that has been designated as
9 a school failing to meet academic standards and shall present the respective
10 improvement plans that have been developed for each school.

11 T. A school that has not submitted an improvement plan pursuant to
12 subsection S of this section is not eligible to receive monies from the
13 classroom site fund established by section 15-977 for every day that a plan
14 has not been received by the superintendent of public instruction within the
15 time specified in subsection S of this section plus an additional ninety
16 days. The state board of education shall require the superintendent of the
17 school district to testify before the board and explain the reasons that an
18 improvement plan for that school has not been submitted.

19 U. If a charter school is designated as a school failing to meet
20 academic standards, the department of education shall immediately notify the
21 charter school's sponsor. The charter school's sponsor shall either take
22 action to restore the charter school to acceptable performance or revoke the
23 charter school's charter. Within thirty days the school shall notify the
24 parents of the students attending the school of the classification and of any
25 pending public meetings to review the issue.

26 V. A school that has been designated as a school failing to meet
27 academic standards shall be evaluated by the department of education to
28 determine if the school failed to properly implement its school improvement
29 plan, align the curriculum with academic standards, provide teacher training,
30 prioritize the budget or implement other proven strategies to improve
31 academic performance. After visiting the school site pursuant to subsection
32 O of this section, the department of education shall submit to the state
33 board of education a recommendation to proceed pursuant to subsections Q, R
34 and S of this section or that the school be subject to a public hearing to
35 determine if the school failed to properly implement its improvement plan and
36 the reasons for the department's recommendation.

37 W. If the department does recommend a public hearing, the state board
38 of education shall meet and may provide by a majority vote at the public
39 hearing for the continued operation of the school as allowed by this
40 subsection. The state board of education shall determine whether
41 governmental, nonprofit and private organizations may submit applications to
42 the state board to fully or partially manage the school. The state board's
43 determination shall include:

44 1. If and to what extent the local governing board may participate in
45 the operation of the school including personnel matters.

1 2. If and to what extent the state board of education shall
2 participate in the operation of the school.

3 3. Resource allocation pursuant to subsection Y of this section.

4 4. Provisions for the development and submittal of a school
5 improvement plan to be presented in a public meeting at the school.

6 5. A suggested time frame for the alternative operation of the school.

7 X. The state board shall periodically review the status of a school
8 that is operated by an organization other than the school district governing
9 board to determine whether the operation of the school should be returned to
10 the school district governing board. Before the state board makes a
11 determination, the state board or its designee shall meet with the school
12 district governing board or its designee to determine the time frame,
13 operational considerations and the appropriate continuation of existing
14 improvements that are necessary to assure a smooth transition of authority
15 from the other organization back to the school district governing board.

16 Y. If an alternative operation plan is provided pursuant to subsection
17 W of this section, the state board of education shall pay for the operation
18 of the school and shall adjust the school district's student count pursuant
19 to section 15-902, soft capital allocation pursuant to section 15-962,
20 capital outlay revenue limit pursuant to section 15-961, base support level
21 pursuant to section 15-943, monies distributed from the classroom site fund
22 established by section 15-977 and transportation support level pursuant to
23 section 15-945 to accurately reflect any reduction in district services that
24 are no longer provided to that school by the district. The state board of
25 education may modify the school district's revenue control limit, the
26 district support level and the general budget limit calculated pursuant to
27 section 15-947 by an amount that corresponds to this reduction in services.
28 The state board of education shall retain the portion of state aid that would
29 otherwise be due the school district for the school and shall distribute that
30 portion of state aid directly to the organization that contracts with the
31 state board of education to operate the school.

32 Z. If the state board of education determines that a charter school
33 failed to properly implement its improvement plan, the sponsor of the charter
34 school shall revoke the charter school's charter.

35 AA. If there are more than two schools in a district and more than
36 one-half, or in any case more than five, of the schools in the district are
37 designated as schools failing to meet academic standards for more than two
38 consecutive years, in the next election of members of the governing board the
39 election ballot shall contain the following statement immediately above the
40 listing of governing board candidates:

41 Within the last five years, (number of schools) schools in the
42 _____ school district have been designated as "schools
43 failing to meet academic standards" by the superintendent of
44 public instruction.

1 BB. At least twice each year the department of education shall publish
2 in a newspaper of general circulation in each county of this state a list of
3 schools that are designated as schools failing to meet academic standards.

4 CC. The failing schools tutoring fund is established consisting of
5 monies collected pursuant to section 42-5029, subsection E as designated for
6 this purpose AND MONIES DEPOSITED PURSUANT TO SECTION 5-522, SUBSECTION H.
7 The department of education shall administer the fund. The department of
8 education may use monies from the fund to purchase materials designed to
9 assist students to meet the Arizona academic standards and to achieve a
10 passing score on the Arizona instrument to measure standards test in order to
11 graduate from high school.

12 DD. The department of education may develop a classification label for
13 school districts and charter school operators. If the department of
14 education develops a classification label for school districts and charter
15 school operators, the classification label may be developed from the
16 following components:

- 17 1. Measures of academic progress.
- 18 2. Pupil assessment data.
- 19 3. The attendance rates and graduation rates of pupils who are
20 educated in that charter school operator's charter schools or in that school
21 district's schools.
- 22 4. The percentage of the parents of pupils enrolled in that charter
23 school operator's charter schools or in that school district's schools that
24 categorizes the quality of their child's education as excellent on a parental
25 rating of school quality.